

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: Engineering

AGENDA DATE: June 8, 2010

CONTACT PERSON NAME AND PHONE NUMBER: R. Alan Shubert, P.E., City Engineer (X4423)

DISTRICT(S) AFFECTED: ALL

SUBJECT:

That the City Council hereby approves and adopts the competitive sealed proposal method for the selection of contractors for the construction of facilities as well as design-build and job order contracts for minor construction methods as the selection methods that provide the best value to the City; and

That the City Council hereby approves and adopts the procedures, selection criteria and weight to be given the selection criteria for the competitive sealed proposal method for the selection of contractors for the construction of facilities as set forth in detail in Exhibit "A" attached hereto. Exhibit "A" hereby replaces the criteria and relative weights of the criteria for the competitive sealed proposal selection method adopted in the April 23, 2002 City Council Resolution.

BACKGROUND / DISCUSSION:

On December 10, 2009 staff presented to the Financial Services LRC a recommendation for revised Competitive Sealed Proposal (CSP) process, weights and selection criteria along with a performance evaluation form and scoring that would be used for the CSP. The purpose for the revised CSP process is to: 1. Standardize procedures to score firms objectively based on their performance evaluation on file; 2. Expedite the process to award construction contract by only requiring one City Council Action; 3. Clarify and standardize documentation material to the bid proposals. In addition, the performance evaluation process will allow staff to standardize documentation for recommendations to City Council and for open dialogue with the contractors on performance issues. Staff final recommendation to City Council includes the performance evaluation form, and CSP revised process with a value allocation of 75 points for price, 20 points for past performance and 5 points for insurance.

The Financial Services LRC directed staff to work with industry to further develop the forms and process. Over the past five months, Staff and industry met numerous times. There were several alternatives to the statutory competitive sealed proposal process that were proposed and analyzed, however some were not allowed under existing state law. The final letters from the City and Associated General Contractors of America are attached for reference.

PRIOR COUNCIL ACTION:

The criteria and relative weights for the criteria were originally established in a resolution dated April 23, 2002.

AMOUNT AND SOURCE OF FUNDING:

N/A

BOARD / COMMISSION ACTION:

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD:



(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Information copy to appropriate Deputy City Manager

RESOLUTION

WHEREAS, Section 271.114 (a) of the Texas Local Government Code requires that the governing body of a governmental entity that is considering a construction contract for a facility using an selection method specified in Section 271.113(a) of the Local Government Code other than competitive bidding, before advertising proposals for constructions services, determine which method provides the best value to the governmental entity; and

WHEREAS, The City Council, by resolutions dated March 12, 2002 and July 20, 2004, determined that the competitive sealed proposal method as well as the design build and job order contracts for minor construction methods are the selection methods that provide the best value to the city; and

WHEREAS, Section 271.114(b) of the Texas Local Government Code requires that a governmental entity that is using the competitive sealed proposal method to procure contracts for the construction of facilities publish in the request for proposals all the criteria that will be used to evaluate the offerors and the relative weight to be given to the criteria.

WHEREAS, the City Council determined the criteria and the relative weight to be given to the criteria for the competitive sealed proposal process by resolution dated April 23, 2002; and

WHEREAS, the City has recently held numerous public meetings with the construction community concerning the method of selection as well as the criteria to be used to evaluate offerors and the relative weights to be given to the criteria; and

WHEREAS, the city staff has developed a selection process using the competitive sealed proposal method, the criteria to be used to evaluate the offerors and the relative weights to be given to the criteria and that the criteria and the relative weights that provide the best value to the City when entering into a contract for the construction of a facility as follows:

Purchase price: a maximum of 75 points

Offeror's past relationship with the City: a maximum of 20 points

The health benefits the offeror provides to its employees: a maximum of 5 points, all as explained in detail in Exhibit "A" attached to this Resolution.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

The City Council hereby approves and adopts the competitive sealed proposal method for the selection of contractors for the construction of facilities as well as design-build and job order contracts for minor construction methods as the selection methods that provide the best value to the City.

The City Council hereby approves and adopts the procedures, selection criteria and weight to be given the selection criteria for the competitive sealed proposal method for the selection of contractors for the construction of facilities as set forth in detail in Exhibit "A" attached hereto. Exhibit "A" hereby replaces the criteria and relative weights of the criteria for the competitive sealed proposal selection method adopted in the April 23, 2002 City Council Resolution.

ADOPTED THIS _____ DAY OF _____ 2010.

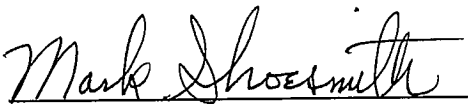
THE CITY OF EL PASO:

John F. Cook
Mayor

ATTEST:

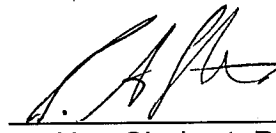
Richarda Duffy Momsen
City Clerk

APPROVED AS TO FORM:



Mark Shoemith
Assistant City Attorney

APPROVED AS TO CONTENT:



R. Alan Shubert, P.E.
City Engineer

EXHIBIT "A"

CONTRACTOR CSP EVALUATION ADMINISTRATIVE POLICY

Objective

The goal of this policy is to provide guidelines for the evaluation of the Competitive Sealed Proposal (CSP) construction bids for CIP projects in the Engineering Department for Competitive Sealed Proposals (CSP) contracts. The policy applies only to the CSP contracts; please refer to the Low Bid Unit Priced bid evaluation policy for Low Bid Contracts. The policy correlates directly with Section C of the Bid Documents (Competitive Sealed Proposals – Selection Criteria), which is included in all bidding documents and is shown below for reference. Section I of the policy details general processing and evaluation guidelines. Section II provides the procedure on how perform and process the performance evaluation of contractors.

SECTION I

CSP Evaluation

1. Sealed proposals will be opened at a public meeting by the Purchasing Department representative.
2. For the purposes of the evaluation, the offeror shall include the general contractor, personnel, and subcontractors as a single team.
3. Once the bid tabulation and bid packages are received, review the bid tabulation and the proposal form to ensure all proposals are responsive.
 - a. Proposals that are not responsive shall not be further evaluated. A notification of the non responsive determination shall be sent to the offeror.
4. All responsive proposals shall be evaluated for responsibility:
 - a. The proposals shall be evaluated in accordance with Section C.E of the bid documents for responsibility.
 - i. Offerors that are not responsible shall not be further evaluated. A notification of the not responsible determination shall be sent to the offeror.
 1. The determination of not responsible shall provide detailed backup.
 - ii. The Offerors that are determined to be responsible shall be scored and ranked in accordance with the following section.
5. The proposals shall be ranked in accordance with Section C, subsection G of the bid documents. They will be ranked as follows: Past performance 20 points, price comparison 75 points, and health insurance 5 points for a maximum total of 100 points.
 - i. Past performance (20 points): Obtain the performance evaluation scores (from the City records). The evaluation scores will account for a maximum of 20 points of the 100 point score.

1. The Project Manager, Division Manager and Project Controls shall meet to review the past three scores. If external references are required, they must be obtained by the Project Manager and confirmed by the Division Manager.
2. Should the contractor not have three performance evaluations on file with the City, the past two or one evaluations shall be used.
3. If the city does not have three performance evaluations on file, then external references should be used either for the firm or the principal. The scores must be obtained by the Project Manager and confirmed by the Division Manager. Call three references and ask them the questions on the evaluation form attached. Use the references as backup for the recommendation.
- ii. Project Controls shall provide the calculations on the points obtained based on the price, with the lowest bid receiving a maximum of 70 points.
- iii. Project Controls shall verify the insurance submittals and assign the total points for the health insurance receiving a maximum of 6 points.
- iv. The final ranking must be signed by all reviewers and presented to the City Engineer for approval.
- v. Assist with any protest and reevaluation directions as needed.
6. Negotiate the final terms of the contract. The City engineer shall approve the final terms of the contract. The contract shall be presented for award at City Council.

SECTION II

Contractor Performance Evaluation

1. At the end of each project, the project team comprised of the Construction Inspector, Project Manager, Contract Administration, Division Manager and Assistant City Engineer will get together to evaluate the contractor.
 - a. The evaluation will kept on file for 3 years after the project close out date.
2. The evaluation form is attached to this policy.
3. Ratings of Unacceptable/Poor/Good/Exceptional must be documented and backup attached to the performance evaluation. **See Section III for guidance on documentation and filling out the performance evaluation.**
4. Review areas shall be as noted in the evaluation form.
5. The project manager shall set up a meeting with the contractor to go over his evaluation. It is an optional meeting and the contractor may elect to not attend a the meeting. Upon completion of the meeting, the project team shall complete its evaluation of the contractor. If the contractor does not attend the meeting, the evaluation shall be completed by the project team. The final evaluation shall be sent to the contractor by certified mail. The contractor shall have the right to challenge the final evaluation by sending a written appeal to the City Engineer within five city working days of Contractor's receipt of the final evaluation. The appeal shall state

the basis for the appeal citing the particular portions of the final evaluation and the reasons that the project team was incorrect. The City Engineer may require the project to provide a written response to the appeal. The City Engineer will review the evaluation and (1) approve the evaluation, (2) direct the project team to reconsider all or portions of the evaluation, (3) take such other appropriate action in compliance with state laws and the city's purchasing policies. If the project team is required to reconsider or adjust the evaluation, the revised evaluation shall be sent to the contractor by certified mail. There shall be no meeting with the project team and the contractor to review any changes in the evaluation.

6. Forward the final evaluation form to the master file and update the database.

SECTION III

Guidance for Documenting and Filling out the Contractor Performance Evaluation Form

Below are guidelines that will be used to assist in the evaluation of contractors for the purpose of providing uniformity consistency amongst all the evaluations.

The evaluation ratings definitions are included below. If there are any additional rating criteria for a specific item, it will be listed in the areas below.

Exceptional

Performance meets contractual requirements and exceeds MANY to the City's benefit. The contractual performance of the item assessed was accomplished with FEW minor problems for which corrective actions taken by the contractor were highly effective. Documentation should include a narrative that identifies MULTIPLE significant events that illustrate how they were a benefit to the City. A singular benefit could be of such magnitude; however, that it alone constitutes an Exceptional rating.

Good

Performance meets contractual requirements and exceeds SOME to the City's benefit. The contractual performance of the item assessed was accomplished with SOME minor problems for which corrective actions taken by the contractor APPEARED or WERE SATISFACTORY. Documentation should include a narrative that identifies A significant event that illustrate how it was a benefit to the City.

Satisfactory

Performance meets contractual requirements. The contractual performance of the item assessed contained some minor problems SOME minor problems for which corrective actions taken by the contractor APPEARED or WERE SATISFACTORY.

Documentation should include a narrative that identifies only minor problems, or major problems the contractor recovered from without impact to the contract.

Poor

Performance does not meet SOME contractual requirements. The contractual performance of the item assessed reflects a serious problem for which the contractor's corrective actions appeared or were marginally ineffective. The contractor's proposed actions appeared only marginally effective or were not fully implemented. Documentation should include a narrative that identifies A SIGNIFICANT event that illustrates that the contractor had trouble overcoming and include how it impacted the City. Documentation shall include additional correspondence that notified the contractor of the deficiency.

Unacceptable

Performance does not meet SIGNIFICANT contractual requirements and recovery was not achieved in a timely manner. The contractual performance of the item assessed CONTAINED a serious problem for which the contractor's corrective actions appeared or were ineffective. Documentation should include a narrative that identifies MULTIPLE SIGNIFICANT events that illustrates how the contractor had trouble overcoming and include how it impacted the City. A singular problem could be of such serious magnitude that it could be rated as unacceptable. Documentation shall include additional correspondence that notified the contractor of the deficiency.

For items 1b (Construction Quality Control Plan) and 11 (Safety Plan) for the following additional guidance is provided.

The minimum areas that need to be covered by the Construction Quality Control Plan are as follows:

1. Inspection Organization – Names, qualifications, and roles of personnel
2. Define the work features by category
 - a. Technical construction requirements
 - b. Submittals
 - c. Sampling and control test requirements
 - d. Tests required and acceptance criteria
 - e. Inspection schedule
 - f. Test methods and testing company identification
 - g. Procedure for documenting inspections and testing
 - h. Approval authority for corrective actions
3. Checklists for daily, periodic and final inspections

For a rating of Good, the plan must include at least one item above the minimum areas listed above and must be a benefit to the City, workers and the public. For an exceptional rating, the plan must include multiple items above the minimum areas listed above and must be a benefit the City, workers and the public.

The minimum areas that need to be covered by the Safety Plan are as follows:

1. Contractor safety and health policy
2. Safety and health goals
3. Roles and responsibilities
4. Discipline policy and procedures
5. Job site inspection procedures
6. Accident investigation procedures
7. Record keeping procedures
8. Training requirements
9. Medical response and first aid procedures
10. Emergency response plan and procedures
11. Fall protection plan
12. Blood borne pathogen plan
13. Site specific plan with detailed hazard analysis for each work activity

For a rating of Good, the plan must include at least one item above the minimum areas listed above and must be a benefit to the City, workers and the public. For an exceptional rating, the plan must include multiple items above the minimum areas listed above and must be a benefit the City, workers and the public.

Attachments:

A – PERFORMANCE EVALUATION FORM



**CITY OF EL PASO
COMPETITIVE SEALED PROPOSAL
PROCUREMENT CRITERIA**

**PROJECT NAME
PROPOSAL No. 200X-X**

Refer to Item 6 appearing in Section I-B of this solicitation, entitled Method of Award Competitive Sealed Proposal.

COMPETITIVE SEALED PROPOSAL; BEST VALUE ASSESSMENT

- **INSTRUCTIONS TO OFFERORS:** INFORMATION AND DOCUMENTATION RELATED TO ALL CRITERIA SPECIFIED WITHIN THIS SECTION MUST BE SUBMITTED WITH OFFEROR'S PROPOSAL. FAILURE TO FURNISH REQUIRED DOCUMENTATION AND INFORMATION RELATED TO THIS PROPOSAL MAY RESULT IN THE PROPOSAL BEING DEEMED INCOMPLETE, NON-RESPONSIVE OR MAY AFFECT POINT DETERMINATION. The Owner is not responsible for locating or securing any information that is omitted from the Offeror's proposal even if such information is reasonably available to the Owner.
- In conducting the Best Value assessment, the Owner (also referred to as "City") may use information provided by the Offeror and from other sources; however, the burden of providing thorough and complete information is the sole responsibility of the Offeror. **The City reserves the right to request additional information and/or verify information.**

A. Selection procedure in general

1. The Owner shall make the determination of whether the offeror is a responsible offeror using the criteria specified in Section E, below.
2. Only Offerors found to be responsible shall be ranked. The offeror receiving the highest number of points as described in Sections B, C and D shall be ranked first and each offeror thereafter shall be ranked in order of the number of points assigned to the offeror.

B. Purchase price: 75 maximum allowable points.

The responsible Offeror with the lowest price shall receive the maximum allowable points. Each Offeror thereafter shall receive points based on the proration of

its price to that of the lowest price submitted as shown in Part A of the Competitive Sealed Proposal Criteria Evaluation form that follows.

Each Offeror shall complete and submit Section I-C-a, Proposal, of the solicitation document.

C. Offeror's past performance with the Owner and/or other agencies: 20 maximum allowable points.

For purposes of this section C, "past three years" shall mean the three years immediately before the day the offer is submitted to the City. "Contract" shall mean any construction contract, whether completed or in progress, between Offeror and the City or any other owner within the past three years.

Past performance shall be ranked based on the scores for prior projects constructed by Offeror and current projects under construction by Offeror, with the following limitations and requirements:

1. Offeror shall list in its proposal the three most recent projects the Offeror constructed or is presently constructing under contracts with the City within the past three years and/or projects similar in size and value constructed for other entities. The City will take the performance review score for each of the three projects and average the three scores. The average will be the score entered in Part B of the Competitive Sealed Proposal Criteria Evaluation form that follows.
2. Should the Offeror not have three project performance review scores on file with the City, the Offeror shall provide references for similar projects constructed for other entities by the Offeror and/ or the principal of the Offeror.
3. The City may interview other owners that contracted with Offeror for construction of one or more projects that were constructed within the past three years, regardless of whether Offeror listed such owner and project or projects in its references. The score for each project shall be based on the answers to the Criteria for Evaluating the Performance of Offerors, set forth in Section F, below, given by the owner of each project. The City may elect to use the evaluation of such other owners rather than the evaluation of the owners listed by Offeror.
4. If less than three evaluations are completed, only the completed evaluations will be considered and only the scores from the available evaluations will be averaged.
5. City project performance review scores shall be used first and the remaining project scores shall be from interviews of other owners, not to exceed a combined total of three city and non-city projects.

D. Health insurance: 5 maximum allowable points for complying with the requirements that the Contractor provide health insurance benefits to its employees as specified in the Instructions to Bidders.

E. Criteria for determining that offerors/bidders are responsible.

The City shall consider the following criteria in making its determination as to whether an Offeror or bidder (hereafter "Offeror") is responsible. Offerors the City determines to not be responsible shall not be ranked for award of contract. For purposes of this section E, "past three years" or "past five years" shall mean the three years or five years immediately before the day the offer or bid (hereafter "offer") is submitted to the City. "Contract" shall mean any construction contract, whether completed or in progress, between Offeror and the City or any other owner within the past three years with the exception of item 16 which has a five year period.

1. Failure of Offeror to comply with contract requirements.
2. Default by Offeror resulting in termination of the contract by owner.
3. Insufficient qualifications, ability, capability, and skill of the Offeror to perform the contract.
4. Insufficient character, responsibility, integrity, reputation or experience of the Offeror, including but not limited to its subcontractors and project managers and superintendants.
5. Insufficient ability of Offeror to perform the contract promptly, or within the time required in the contract, without delay or interference and whether the Offeror followed owner approved schedules.
5. Noncompliance by the Offeror with specification requirements relating to time of submission of specified data such as samples, models, drawings, certificates, pay applications, payrolls or other information on contracts in the last three years.
7. Overall poor performance by the Offeror on previous contracts.
8. Offeror does not maintain a permanent place of business.
9. Offeror has does not have adequate plant, equipment, and personnel to do the work properly and expeditiously;
10. Insufficient safety record and practices of the Offeror.
11. Insufficient cooperativeness and responsiveness by Offeror with owner, designer, subcontractors and suppliers of previous contracts.
12. Insufficient financial resources of Offeror that could adversely impact Offeror's ability perform the contract or to pay subcontractors and suppliers in a timely manner.

13. Insufficient quality of performance (work, labor and materials) and quality control procedures and practices by Offeror on contracts.

14. The Offeror has insufficient financial, staffing, facility or other resources to meet the requirements of the warranty periods required in the contract for which the offer was submitted.

15. The Offeror has failed to demonstrate that he is able to comply with Owner's health insurance requirements for the proposed contract.

16. **Similar past projects** The Offeror must demonstrate successful construction and completion within the past five years of at least (A) one project that was similar in nature and scope to this Project and (B) one project with a value at least fifty percent (50%) of the amount offered for this Project.

F. Criteria for evaluating the performance of Offerors

The City shall evaluate the Contractors for each project constructed or under construction based upon the following criteria, for the purpose of creating a score that may be applied in the ranking of the contractor when the contractor subsequently submits offers to the City. The contractor shall have the opportunity to meet with the Owner to review and comment on the evaluation. The contractor shall have the right to appeal the evaluation to the City Engineer by submitting a written appeal to the City Engineer stating the portions of the evaluation appealed and the reason for such appeal.

1. The reputation of the Offeror and of the Offeror's services

- a. Compliance with contract requirements.
- b. Default on contract.
- c. Default on contract that led to termination of contract.
- d. The qualifications, ability, capability, and skill of the Offeror exhibited in the performance of the contract.
- e. The character, responsibility, integrity, reputation and experience of the Offeror, including but not limited to its subcontractors and project managers and superintendants, exhibited in the performance of the contract.

2. The quality of the Offeror's services.

- a. The quality, availability, and adaptability of the contractual services to the particular use required in the performance of the contract.

- b. The extent to which the contract was performed in a prompt and responsive manner, within the time required by the contract, without delay or interference and the extent to which owner approved schedules were met.
- c. The level of compliance with specification requirements relating to time of submission of specified data such as samples, models, drawings, certificates, pay applications, payrolls or other information.
- d. The overall performance of the contract.
- e. Safety record for the work of the contract and the adequacy of safety practices employed in performing the work.
- f. Cooperativeness and responsiveness with Owner, designers, subcontractors and suppliers in the performance of the contract.

3. The extent to which the Offeror's services meet the City's needs.

- a. The extent to which the contract was performed efficiently and pursuant to the specifications.
- b. The sufficiency of the financial resources and ability to perform the contract, including, but not limited paying subcontractors and suppliers in a timely manner.
- c. The degree to which there were sufficient financial, staffing, facility or other resources to meet the contract requirements.
- d. A permanent place of business was maintained throughout the performance of the contract.
- e. Adequate plant, equipment, and personnel to do the work properly and expeditiously existed throughout the performance of the contract.

4. The Offeror's past relationship with the City.

- a. The quality of performance (work, labor and materials) on this contract and the quality control procedures and practices.
- b. Evaluation of contractor's ability to perform this contract while performing other contracts concurrently and/or completing other contracts with the City.

5. The total long-term costs to the City to acquire the Offeror's services.

The ability of the Offeror to meet the requirements of the contractor's warranty period. The quality of work performed by Offeror as it may relate to the long-term reduction of repairs to the construction.

G. Competitive Sealed Proposal Evaluation Process

1. **Ranking offers.** All proposals will be ranked based on the above criteria (Sections B, C and D) by the City's Project Manager, Division Manager and Contract Administration Manager and forwarded to the City Engineer for approval. The final rankings will then be forwarded to the City Manager for approval. "City Manager" shall include any designee of the City manager.
2. **Authorization to negotiate.** The City Manager shall review the final ranking. The City Engineer shall negotiate, starting with the highest-ranking Offeror (the "Selected Offeror") only upon authorization from the City Manager. In the event the City Engineer and Selected Offeror cannot reach an agreement within thirty consecutive calendar days from the date the Selected Offeror receives notice of the City Manager's approval of the final ranking, the City Engineer may, in the absence of a protest by the Selected Offeror, either (1) proceed to negotiate with the remaining Offerors in the order of their ranking without additional approval of the City Manager or (2) reject all offers.
3. **Notice and filing protests.** The Offerors will be notified in writing (by fax, email or regular mail) of the final ranking. The ranking shall be sent with the notice and shall show the order of the ranking and points received by each Offeror. Offerors shall have three city working days from the day of their receipt of the notice to challenge the ranking by filing a protest with the City's Purchasing Manager. The protest shall state the basis for the challenge of the ranking. All Offerors will be notified of any protests filed.
4. **Review of protests.** The Purchasing Manager will review the validity of the protest regarding the ranking and make a recommendation to the City Manager. The City Manager will review the rankings and Purchasing Manager's recommendation and (1) approve the rankings and the Selected Offeror, (2) direct Engineering staff to reconsider the rankings or (3) take other appropriate action in compliance with state laws and the City's purchasing policies.
5. **Notice of results of review and new ranking.** All Offerors shall be given notice of the City Manager's determination upon completion of the review of the protest. If reconsideration of the ranking is not required by the City Manager, the ranking shall be final as of the date of the City Manager's determination and no further protest shall be allowed.

If reconsideration of the ranking is required, notice of the results of the reconsideration of the ranking shall be provided to all Offerors.

6. **Protesting the new ranking** All Offerors may protest the re-ranking of the Offerors following the same process as set forth above.
7. **Appeal of final ranking** Offerors who have filed a protest concerning the final ranking may appeal the decision of the City Manager. No other Offerors may appeal under this paragraph. The appeal shall be to the City Council and shall be filed with the Purchasing Manager within five City business days of the Offeror's receipt of the notice of the final ranking. The appeal shall state the basis for the challenge of the ranking.
8. **Scope of negotiations** Engineering staff will negotiate with the Selected Offeror and may discuss options for scope or time modifications to the proposed contract and any price change associated with the modifications.
9. **Reaching agreement or terminating selection process** If the Engineering staff and the Selected Offeror do not reach an agreement within thirty consecutive calendar days of the date the Selected Offeror received notice of the final ranking, the Selected Offeror shall be notified in writing that negotiations are terminated and the Offeror shall not be permitted to enter into a contract with the City. The Selected Offeror shall have three city working days from the day of its receipt of such notice to file a protest with the Purchasing Manager. The protest shall state the basis for the challenge to the termination of negotiations. The Purchasing Manager will review the validity of the protest and make a recommendation to the City Manager. The City Manager will review the protest and the Purchasing Manager's recommendation and may direct Engineering staff to terminate or reopen negotiations with the Selected Offeror. If the determination is to terminate negotiations with the Selected Offeror, the City Manager may direct Engineering staff to negotiate with the next highest ranked Offeror or reject all offers. This procedure will be repeated until an agreement is reached or all offers are rejected.
10. **Appeal by selected Offeror after terminating negotiations** If the City Manager denies the protest made pursuant to the previous paragraph, the Selected Offeror may appeal that decision to the City Council. No other Offerors may appeal under this paragraph. The appeal shall be filed with the Purchasing Manager within five City business days of the Offeror's receipt of the notice denying the protest. The appeal shall state the basis for the challenge to the termination of negotiations.
11. **Appeal Process** Following a public hearing after the filing of a notice of appeal pursuant to paragraphs G.7 or G.10, the City Council may, by a simple majority vote, uphold or overturn the ruling of the City Manager. The decision of the City Council shall be final and binding.

12. City Council approval of contract The City Engineer shall recommend to Council that the contract be awarded to the highest ranked Offeror with whom the City was able to reach agreement on the terms and conditions of the negotiated contract.

COMPETITIVE SEALED PROPOSAL CRITERIA EVALUATION

Procurement Criteria

Offeror: _____

100 Points Maximum

Part A: Price Maximum 75 Points	Lowest Proposal Amt	Divided by Offeror's Amt	X ____	Total Points

Health Insurance: (Maximum 5 points) _____

SCORE	IF...
5	Provides insurance and pays 100%
4	Provides insurance and pays 60% or higher
3	Provides insurance and pays more than 40% but less than 60%
2	Offers insurance and pays less than 40%
1	Offers insurance but does not pay any portion of it.
0	Does not offer insurance

Part B: Offeror's Past Performance With Owner (Maximum 20 Points)	Past Performance Score	
Project Name:		
Project Name:		
Project Name		Total Points (Max 20 pts)
Average of the three scores		

GRAND TOTAL POINTS _____

Division Manager: _____

Date: _____

Project Manager: _____

Date: _____

Contract Administration: _____

Date: _____

CONTRACTOR PERFORMANCE EVALUATION FORM

Contractor:
Project:
Date:
Brief Project Scope:

Bid Award:
Construction time:
Change orders:
Substantial completion:

MET CONTRACT REQUIREMENTS/EXPECTATIONS

Unacceptable	Poor	Satisfactory	Good	Exceptional
0	1	2	3	4

1. The reputation of the Offeror and of the Offeror's services		MAX POINTS THIS SECTION = 36				
a. Cooperation and responsiveness towards project completion.						
b. Management of resources/personnel						
c. Coordination and control of subcontractors						
d. Effectiveness of job-site supervision						
e. Professional conduct						
f. Review / Resolution of subcontractors' issues						
g. Compliance with laws and regulation						
h. Payrolls properly submitted completed and submitted						
i. Compliance with Labor Laws and Regulations						
2. The quality of the Offeror's services		MAX POINTS THIS SECTION = 56				
a. Quality of workmanship						
b. Adequacy of the Construction Quality Control plan						
c. Implementation of the Construction Quality Control plan						
d. Quality of documentation						
e. Quality of materials storage area						
f. Quality of materials						
g. Quality and control of material submittals						
h. Quality of as-built plans						
i. Adherence to using materials specified in the contract and/or approved submittals						
j. Identification and correction of deficient work in a timely manner						
k. Contract Non-compliance corrected in a timely manner						
l. Adequacy of Safety Plan						
m. Implementation of Safety Plan						
n. Corrected safety deficiencies in a timely manner						
3. The extent to which the Offeror's services meet the City's needs		MAX POINTS THIS SECTION = 24				
a. Adequacy of site clean-up						
b. Adequacy of initial project schedule						
c. Adherence to approved schedule						
d. Resolution of delays						
e. Submission of required documentation, including contract documents, payrolls, submittals, etc.						
f. Submission of updated and revised progress schedules						
TOTAL = 0	SCORE FOR CSP: 0	0	0	0	0	0

Construction Inspector	_____	Date: _____
Project Manager	_____	Date: _____
Contract Administration	_____	Date: _____
Division Manager	_____	Date: _____
Assistant City Engineer	_____	Date: _____

Please provide a narrative and documentation accordingly, for the ratings.

Comments:

See next page for additional comments.
Additional Comments:

Dedicated to Outstanding Customer Service for a Better Community

S E R V I C E S O L U T I O N S S U C C E S S



ENGINEERING DEPARTMENT

April 22, 2010

Associated General Contractors
4625 Ripley
El Paso, TX 79922

Attn: Mr. Larry Trejo

Subject: Competitive Sealed Proposals

Mr. Trejo,

Thank you for meeting us Monday regarding the revised CSP process. At the meeting we requested some time to review your suggestion of setting a cap on the next highest bidder that has a higher performance evaluation score. Unfortunately, the statute does not allow us to do this. Throughout this process we are limited as to what we can do based on the statute. We need to move forward with plan because our current system needs to be improved.

One of the issues that are being raised is that we're expecting that 75% of the ranking score be the price. The CSP process allows us to allocate different values to what we can consider as part of the CSP evaluation criteria. In this case, we're proposing to allocate 75 points towards price (we currently have 65 points). The price variation between contractors inevitable yields different scales and percentages towards the ranking and will vary from project to project based on the spread. However, the same can be said for the performance evaluation.

As we noted at the meeting: a good contractor will average a score of 2.5 on the performance evaluation form (assuming half of the evaluation they get 2s and the other half 3s), which translates to 12.5, based on a 20 point value allocation in the CSP. A questionable contractor will average 1.5 (assuming half the evaluation they get 1s and the other half 2s), which translates to 7.5 based on a 20 point value allocation. The spread between these contractors is 5 points (which we agree that it's not 5 percent when you consider the spread based on the price when you do the final selection). The bulk of the contractors, including new ones and those who have not done any work for the City for the past three years, will be within this range.

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Engineering Department

Working Together, Building for the Future

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Please review the numbers closer for the three projects we evaluated.

Project 1

Points based on Price	Difference from the lowest price	Points for Performance	Difference from the lowest price
75		10.86	
69.94	-5.06	11.77	+0.91
68.51	-6.49	11.41	+0.55
67.54	-7.46	8.97	-1.89
64.53	-10.47	7.33	-3.53

Project 2

Points based on Price	Difference from the lowest price	Points for Performance	Difference from the lowest price
75		10.00	
71.6	-3.40	10.52	+0.52
64.74	-10.26	11.41	+1.41
49.05	-25.95	10.00	0

Project 3

Points based on Price	Difference from the lowest price	Points for Performance	Difference from the lowest price
75		11.77	
73.54	-1.46	7.84	-3.93
72.37	-2.63	11.41	-0.36
69.51	-5.49	7.31	-4.46

Based on the spreads on price and on the performance, there is more of a spread on the price. There will be the odd project where the spread for price will be closer than the performance evaluation. If you look at the performance evaluations on these projects, the lowest bidder will get the highest ranking. Unless you're a questionable contractor (with evaluation scores around 7.5), your ranking will be dictated by the price in the majority of the projects. I think we can agree that this is the ideal situation. Even though you may not agree this is the best approach, we do believe this is a better option than the current process and one that is within the statute guidelines that we need to meet. We agree that there will be those special projects where the bids come extremely close where the price will not matter and the ranking will be dictated by the performance evaluation. Those should be few and far between.

There are another two options that we may consider:

Option one – Change the point allocation from 75-20-5 to 85-10-5 as distributed at the meeting.

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Project 1

Points based on Price	Difference from the lowest	Points for Performance	Difference from the lowest
85		5.43	
79.26	-5.74	5.88	+0.45
77.65	-7.35	5.71	+0.28
76.55	-8.45	4.48	-0.95
73.13	-11.87	3.66	-1.77

Project 2

Points based on Price	Difference from the lowest price	Points for Performance	Difference from the lowest price
85		5.00	
81.15	-3.85	5.26	+0.26
73.37	-11.63	5.70	+0.70
55.59	-29.41	5.00	0

Project 3

Points based on Price	Difference from the lowest price	Points for Performance	Difference from the lowest price
85		5.88	
83.35	-1.65	3.92	-1.96
82.02	-2.98	5.71	-0.17
78.78	-6.22	3.66	-2.22

As noted before, if you're a firm that gets a performance evaluation average score between 1.5 and 2.5, your spread is reduced from 5 points to 2.5 points. We would not support this scenario because there would not be much difference between the good contractors and questionable contractors. As you have agreed, one of the main reasons for this process is to separate the good contractor from the questionable ones.

Option 2 – Change the point allocation to 85-10-5, but not use the past performance evaluation score directly.

We would rank the proposals based on the performance evaluation scores. We would then establish a scale from 0-10 depending on the amount of bid received. This would introduce another variable so that a contractor would not know where he would land therefore not take a chance on marking up his price by X%.

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As an example:

If we get 4 bids with performance evaluations of 85, 75, 65, 55, we would assign scores for the CSP based on a scale 0-10 which would convert the performance evaluation scores to 10, 7.5, 5.0, and 2.5 for CSP purposes. As a bidder you would not know who is bidding and how many bidders we will have. This would address the random markup because you don't know if the spread is going to be 0.5 points or 2.5 points based on the example. We don't support this because if we get 4 bidders and all are good with similar performance evaluation scores, it would create a big spread amongst the four. In that case, the lowest bidder may be the lowest ranked proposal, but the contractor would be a good contractor.

In summary, we understand your concerns. After all our meetings, we believe we have developed a better process than we currently use. If you have other options that we can discuss, but still meeting the state statute guidelines, please provide it to us. If we agree that there is no other way for us to continue with the CSP process that is different than what we recommend, we will move forward with our recommendation to City Council. Please let me know if you would like to meet again to discuss any other variations that we may not have considered. Please coordinate the meeting with Sam Rodriguez at 915-240-3250.

I appreciate your time and effort through this process. I think it was a great vehicle to address this issue and I hope that we continue to meet to discuss issues that may come up in the future that affect both the City and the local contracting community. Please forward my letter to the rest of the attendees.

Sincerely,



R. Alan Shubert, P.E.
City Engineer

Cc: Irene Ramirez, P.E., Assistant City Engineer
Sam Rodriguez, P.E., Engineering Division Manager
Mark Shoesmith, Assistant City Attorney



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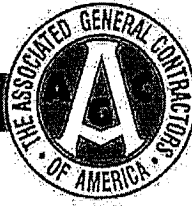
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The El Paso Chapter



May 19, 2010

R. Alan Shubert, P.E.
City Engineer
City of El Paso
2 Civic Center Plaza
4th Floor – Engineering Department
El Paso Texas 79901

Dear Mr. Shubert:

The Associated General Contractors of El Paso appreciates the opportunity to be involved in the revisions to the CSP process. Our members have reviewed the latest proposal provided to us and although we believe it is a good improvement to the existing system, the consensus of our members is that it still may not provide "Best Value" to the City.

Our findings, as presented in recent meetings with your staff, show that although price is stated as 75% of the basis of award for the revised proposal, price may in reality have very little impact in the selection process. While we see this latest proposal as a positive step, we would like to remain involved and with your help continue to analyze actual bids received on city projects over the next 6 months to analyze real world conditions in order to provide additional refinements and "Best Value" to the CSP process.

We would like to thank you and your staff for the effort and allowing us the opportunity to provide input in this process.

Sincerely,

C. Larry Trejo
Executive Director
AGC El Paso

cc: AGC CSP Committee
AGC Board of Directors